IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7621 OF 2004

Shri Ghanshyam V.Kukreja,
c/o S.M.Shetty, Advocate,
High Court, Bombay, Shop No.4,
Kalyani Niwas, Ganesh Lane,
Lalbaug, Mumbai - 400 012 .. Petitioner.

Vs

1. M/s Bhagnari Panchayat Trust,
233, Kataria colony, Veer Savarkar
Marg, Mahim, Mumbai-400 016.

2. The Managing Trustee,
M/s Bhagnari Panchayat Trust,
233, Kataria Colony,
Veer Savarkar Marg, Mahim, Mumbai-16

3. M/s Bhavik Developers,
Prop.Shri Bhupendrabhai
Shantilal Shah, Bhavik Bungalow,
Tilakwadi, Sharanpur Road,
Nashik,

. State of Maharashtra.

4. The Charity Commissioner,
Maharashtra State, Worli,
Mumbai. .. Respondents.

Mr. P.K.Dhakephalkar with Mr S.M.Shetty, for the petitioner.
Mr. Rajesh Gehani, for respondent no.1
Mr G.S.Godbole, for respondent no.3.

CORAM : D.B.BHOSALE,J.
DATE : 15th October, 2004.

ORAL JUDGMENT:

1. This petition is directed against the order dated 30.6.2004 passed by the Joint Charity Commissioner, Maharahtra State, Mumbai allowing the application filed under section 36 (1)(a) of the Bombay Public Trusts Act, 1950 (for short, "Trust Act"). The application

No.J-4/95 was filed by respondent no.1-trust (for short, "the trust") seeking sanction of the Charity Commissioner for sale of their plots of land bearing Survey No.51 (Plot No.4/2), admeasuring 21 Gunthas and Survey No.223, admeasuring 29 Guntahs, including the bungalow and other structures standing thereon (for short, "the property").

2. It appears that in pursuance of the order of the learned Joint Charity Commissioner dated 14.12.2001, fresh offers were invited by publishing advertisements in different newspapers. In response thereto, four bidders consisting of the petitioner, respondent no.3, one M/s Arshad Developers and M/s Dolly Developers quoted their offers. The petitioner and Arshad Developers gave their offers of Rs.81 lacs, while respondent no.3 of Rs.77 lacs and M/s. Dolly Developers of Rs.70 lacs. It is not disputed that after opening the bids on 6.3.2002, all the four bidders were invited to give in writing in the prescribed form as to whether they were ready to enhance the bid. After completing all the formalities, the trust held a meeting on 11.4.2002 in which the offer of respondent no.3 was accepted and, accordingly, the petitioner was informed by a letter dated 12.4.2002 that his offer was not acceptable and hence not forwarded to the Charity Commissioner as required under section 36 of the Trust Act. It appears that the trust had already entered into

a Memorandum of Understanding (for short "the MOU") with respondent no.3 by virtue of which he cleared the encumbrances by getting necessary surrender of tenancy rights from the tenants in the property. Admittedly, the petitioner and other bidders were kept informed about the MOU at the very inception. It further appears that, albeit, respondent no.3 had initially given the offer of Rs.77 lacs, he had subsequently enhanced it to Rs.81 lacs. The matter thereafter went before the Charity Commissioner, who ultimately accorded sanction to sale of the property in favour of respondent no.3 by the order impugned in the present petition.

3. I heard the learned counsel for the parties for quite some time and perused the impugned order and other material placed before me. The petitioner has challenged the sanction accorded by the Charity Commissioner on merits and on the ground that the impugned order is passed in breach of the principles of natural justice inasmuch as the petitioner was not given an opportunity of being heard.

4. Mr Dhakephalkar, learned counsel for the petitioner contended that the property of the trust has a potential to fetch more price than the one quoted by respondent no.3 and, therefore, keeping in view the interest of the trust, which ought to be paramount consideration for grant of sanction under section 36 of

the trust Act, the trust or atleast the Addl. Charity Commissioner ought to have given an opportunity to the petitioner to enhance his bid before according sanction of the sale in favour of respondent no.3. The Addl. Charity Commissioner, while according sanction, has completely ignored the interest or the benefit of the trust. He further submitted that if a relatively better offer is made during enquiry under section 36, it would be obligatory on the Charity Commissioner to consider the same and discard it by recording reasons before preferring the proposed transaction of which a sanction is sought by the trust. According to Mr Dhakephalkar, in any case, the Charity Commissioner before according the sanction of the proposed transaction, ought to have allowed the petitioner to quote better offer and considered the same before passing the impugned order. He submitted that the petitioner was and is ready to enhance his offer. In so far as the second contention that the Charity Commissioner passed the impugned order showing total disregard to the principles of natural justice is concerned, I was taken through the Roznama and the relevant averments in the writ petition by Mr.Dhakepalkar. He submitted that the circumstances in which Advocate Shetty, who was given Power of Attorney by the petitioner to enhance the bid, could not appear before the Additional Charity Commissioner, the matter ought to have adjourned and given one more opportunity to the petitioner. In support of the contentions urged,

Mr Dhakephalkar, placed reliance upon the judgment of the Apex Court in **Mehrwan Homi Irani and anr Vs. Charity Commissioner and ors, 2001 4) Bom C.R.17**, and the judgments of this Court in **Kumar Constructions Vs. Deshastha Regved Sanstha and anr, 2000(5) Bom.C.R 497 and K.P.S. Associates Vs. Bombay Diocesan Trust Association Pvt Ltd and ors, 1998 (6) LJ** 547.

4.1 On the other hand, Mr Godbole, learned counsel for respondent no.3, after taking me through the Roznama, submitted that an ample opportunity was given to the petitioner to appear before the Additional Charity Commissioner. The matter was adjourned from time to time to enable the petitioner to appear and participate in the hearing of the case. However, the Advocate appearing for the petitioner on most of the occasions chose to remain absent which ultimately compelled the Additional Charity Commissioner to pass orders on merits in his absence. He submitted that the petitioner, by his conduct, has disentitled himself to claim relief in the case. Mr Godbole also invited my attention to the present petition, which has been verified by the Advocate on record on the basis of the power of attorney given by the petitioner, and submitted that the petitioner never appeared before the Charity Commissioner, nor is he present in this Court. Mr.Godbole further submitted that in any case the order passed by the Charity Commissioner is passed on merits

and after considering the scope of the enquiry under section 36 of the Trust Act. On merits, he submitted that the order does not deserve interference by this Court in its writ jurisdiction under Article 227 of the Constitution of India. In the application under section 36, the Charity Commissioner is expected to decide whether sale is in the the interest of the trust and for that purpose he is empowered to make such an enquiry as he deems necessary. After holding an enquiry, it is perfectly within the powers of Charity Commissioner to grant or refuse sanction. Mr Godbole, in support of his contentions, pressed into service the following judgments in **Arunodaya Prefab Vs.M.D. Kambli and others, 1979 Mh.L.J 104, Girdhar C.Nichani Vs. Reve. E.H.Lewellen and anr, 1991 Mh.L.J.891, Prakash Rasiklal Dharwal Vs. State of Mahashtra and ors, 2000 (2) All MR 478 and unreported judgment of this Court in A.R. Khan Construwell Company Vs Youth Education Welfare Society Ltd and ors, Writ Petition No.6458 of 2003 decided on 1/10/2004.**

5. To appreciate the contentions urged by the learned counsel appearing for the parties and the questions involved in the petition, it would be advantageous to reproduce section 36 of the trust Act which reads thus:

"36. Alienation of immovable property of public trust.

(1) Notwithstanding anything contained in the instrument of trust-

(a) no sale, exchange or gift of any immovable property, and

(b) no lease for a period exceeding ten years in the case of agricultural land or for a period exceeding three years in the case of non-agricultural land or a building belonging to a public trust, shall be valid without the previous sanction of the Charity Commissioner. Sanction may be accorded subject to such condition as the Charity Commissioner may think fit to impose, regard being had to the interest, benefit or protection of the trust; ©

(c) if the Charity Commissioner is satisfied that in the interest of any public trust any immovable property thereof should be disposed of, he may, on application, authorise any trustee to dispose of such property subject to such conditions as he may think fit to impose, regard being had to the interest or benefit or protection of the trust.

(2) The Charity Commissioner may revoke the sanction given under clause (a) or clause (b) of sub-section (1) on the ground that such sanction was obtained by fraud or misrepresentation made to him or by concealing from the Charity Commissioner, facts material for the purpose of giving sanction; and direct the trustee to take

such steps within a period of one hundred and eighty days from the date of revocation (or such further period not exceeding in the aggregate one year as the Charity Commissioner may from time to time determine) as may be specified in the direction for the recovery of the property.

(3) No sanction shall be revoked under this section unless the person in whose favour such sanction has been made has been given a reasonable opportunity to show cause why the sanction should not be revoked.

(4) If, in the opinion of the Charity Commissioner, the trustee has failed to take effective steps within the period of specified in sub-section (2), or it is not possible to recover the property with reasonable effort or expense, the Charity Commissioner may assess any advantage received by the trustee and direct him to pay compensation to the trust equivalent to the advantage so assessed."

6. Under the terms of section 36, the Charity Commissioner is concerned only with according or refusing sanction to the particular sale which the trustees proposed to make. No sale of immovable property belonging to a public trust is valid without previous sanction of the Charity Commissioner. The Charity Commissioner is empowered to accord sanction

subject to such condition as he may think fit to impose, regard being had to the interest, benefit or protection of the trust and while doing so he is expected to record satisfaction in the order.

6.1 It is now well settled that it is a proceeding which only concerns the trustees. To decide whether such sale is in the interest of the trust,the Charity Commissioner is empowered to make such enquiry as he deems necessary. It is for the trustees to decide whom they should sale the property to, subject to the Charity Commissioner's sanction to the proposed sale. If the Charity Commissioner needs, before according or refusing sanction, to ascertain the market price for the property proposed to be sold, he may issue such directions as he thinks necessary and proper and it is obligatory upon the trustees to comply with those directions. Under section 36, it is not open to the Charity Commissioner to consider the said offers except only to the extent that they might disclose to him what might be the market value of the said land. It is certainly not open to the Charity Commissioner to sell the said land to any person he likes. If he considers the proposed sale adverse to the interest of the trust he can only decline sanction. This principle is settled in **Arunodaya Prefab's** case (supra). In **Girdhar's** case (supra), this Court, while interpreting the provisions of section 36, has made it further clear that the proceedings under this provision

are not a lis between the parties to adjudicate the contesting claim. Mandate of section 36 is that no transfer of the trust property shall be valid unless approved by the Charity Commissioner. The Charity Commissioner as per the scheme has to accord sanction, having regard to the interest or benefit of the trust. The Charity Commissioner in these proceedings after enquiry has to record a satisfaction in that behalf. Section 36 merely authorises the Charity Commissioner to ascertain as to whether the trustees acted in the best interest of the trust. Sub-paragraph of paragraph 7 in **Girdhar's** case (supra), this Court has further considered the scope of the enquiry under section 36 of the Trust Act read with Rule 24 of the Bombay Trust Rules, 1951. The relevant observations read thus:

> "The petitioner is a builder who is anxious to purchase and not being a person having interest in the trust or a beneficiary cannot question the correctness or legality of the order. The petitioner to succeed in his commercial deal under the guise of a guardian of the interest of a trust is prosecuting this petition under Article 227 of the Constitution which cannot be entertained. He is in reality prosecuting his personal commercial interest which cannot be permitted. In Arunodaya Prefab Vs.M.D.Kamble, 1979 Mh.L.J.104 it is observed that under section

36 of the Act read with 24, the Charity Commissioner is concerned only with according or refusing sanction to particular sale which the trustees proposed to make. It is a proceeding which concerns only with the trustees. To decide whether the sale is in the interest of the trust he is empowered to make such enquiries as deemed necessary. It is for the trustees to decide to whom they should sell the property subject to the conditions of the Charity Commissioner to the proposed sale. It is further held that the petitioners who have sent uninvited offer to the Charity Commissioner have no locus standi to challenge the order of the Charity Commissioner by writ petition on the ground of being higher-bidder. The Charity Commissioner is not obliged to associate with the petitioner into enquiry or to consider the offer made by the petitioner. Shri Deshpande tried to urge that in the instant case, the petitioner made an order on invitation. Therefore, he is entitled to maintain this petition. I am unable to agree. The nature of the proceedings under section 36 and the scope is definite. Even if the offer was made by the petitioner on the invitation of the trustees, he does not acquire any right to question the legality or correctness of the order passed by the Charity Commissioner under section

36 of the Act".

In **Prakash Rasiklal Dhariwal** case (supra), this Court, while dealing with the argument regarding readiness of the petitioner to enhance the offer observed that writ petition would not sustain that based on a speculative argument and the Charity Commissioner also cannot take note of such an argument.

6.2 The Apex Court in **Mehrwan Homi Irani & Anr case** (supra) was dealing with the question as to whether the agreements entered into between the trust and the 5th respondent therein are capable of carrying out the objects of the trust to provide a Sanatorium for the convalescing and sick persons. The question was considered in the light of facts that the two-lease agreements, a total of 12 acres of land was to be leased to the 5th respondent therein for a period of 99 years at an annual rent of Rs.1,51,000/- and in the said agreements there was no sort of covenant as to how the property would be used by the 5th respondent. In the application filed before the Charity Commissioner also, it was not explained as to how the 5th respondent-lessee would make use of 12 acres of lands to be given to him at an annual rent of Rs.1,51,000/- under the lease agreements. It is against this backdrop, the Apex Court held that the object of the trust should be accomplished in the best of its interests. Leasing out of major

portion of the land for other purposes may not be in the best interests of the trust. The Charity Commissioner was, therefore, directed to take a fresh decision in the matter by issuing fresh advertisements inviting fresh proposals and the proposal of the 5th respondent was also directed to be considered.

7. It is thus clear that in the proceedings under section 36 of the Trust Act read with rule 24 of the Rules of 1951, the Charity Commissioner is concerned only with according or refusing sanction to the particular sale which the trustees propose to make and to decide whether such sale is best in the interest or benefit of the trust by making enquiry as he deems it necessary. No sale of immovable property belonging to the public trust is valid without previous sanction of the Charity Commissioner. It is not open to the Charity Commissioner to grant sanction of the questioned property of the trust to any person he likes. The Charity Commissioner has no power to require the trustees to lease or sell the trust land to any one other than the person selected by them. If he considers the proposal of any other person other than the person selected by the trust, it would work adverse to the interest of the trust. Jurisdiction of the Charity Commissioner is only to either grant or decline to grant permission for the reasons to be recorded separately. Confidence of the trustees in a person whom they propose

to sell the questioned land, is also an important factor which cannot be overlooked by the Charity Commissioner. If the trustees do not have confidence in other bidders, they cannot be compelled by the Charity Commissioner to accept the offer of such bidder more particularly when refusal to accept offer of such bidder is based on valid reasons. However, in such eventuality it is open for the Charity Commissioner to either decline sanction or issue such directions as may be necessary in the interest of the trust, including the direction to the trust to issue fresh advertisement.

8. Keeping the aforesaid position in law in view, I would now like to examine the merits of the contentions urged on behalf of the parties for and against the order impugned in the present writ petition. It is clear from the facts that the Commissioner was not satisfied with the offers initially received by the trust and, therefore, by order dated 14.12.2001, directed the trust to invite fresh offers by publishing an advertisement in different newspapers. This demonstrates that the interest or benefit of the Trust was in the back of Additional Charity Commissioner's mind, who otherwise could have accorded sanction to the initial offer of respondent no.3. Admittedly, the petitioner had not even participated in the first round of sale of the property. In response to the second advertisement, four offers were received by the trust consisting of the

petitioner, respondent no.3 and two other Developers. All were given an opportunity to enhance their offers by requiring them to fill in the standard form dated 6.3.2002. Admittedly, the petitioner declined to enhance the offer. Mr Dhakephalkar, learned counsel for the petitioner, submitted that the petitioner did not enhance the offer in view of the fact that no other bidder enhanced the offer. It is not clear how could the petitioner authoritatively say that no other bidder enhanced the offer. The fact remains that respondent no.3, who had earlier given offer of Rs.77 lacs, enhanced it to Rs.81 lacs. M/s Arshad Developers had also given offer of Rs.81 lacs. In view thereof, there were three bidders before the trust for consideration, whose offers were equal, i.e. Rs.81 lacs. It has come on record that M/s Arshad Developers subsequently withdrew and, therefore, the trust had to consider the offers of the petitioner and respondent no.3 only. It is against this backdrop, it would not be possible for me to accept the submission of Mr Dhakephalkar that the petitioner was not given an opportunity to enhance his offer. The petitioner seems to have taken such stand only after he came to know about the enhanced offer of respondent no.3. It appears that the trust considered all the offers, merits and demerits of all the bidders in their meeting held on 11.4.2002 and ultimately accepted the offer of respondent no.3 finding it best in the interest and benefit of the Trust. It reveals from

the record that the offer of the petitioner was rejected on the ground that the petitioner being NRI, it would be difficult for the trust to chase him and, moreover the initial balancesheet provided by him was showing insufficient balance.

8.1 The record further reveals that the trust had already entered into a Memorandum of Understanding with respondent no.3 which goes to show that the trustees had full confidence in respondent no.3. The MOU was executed on 1.2.2001 and in pursuance thereof respondent no.3 had agreed to purchase the property for Rs.73 lacs "as is where is basis" and the sum of Rs. seven lacs were paid as earnest. It further appears that respondent no.3 had acted on the MOU. The property was encumbered. There were tenants in the bungalow standing on the questioned property and respondent no.3 had cleared the encumbrances by getting necessary surrender of tenancy rights from the tenants.

8.2 Section 36 does not confer power on the Charity Commissioner to accord sanction after the transaction is completed and validate it by the ex post facto sanction. Giving such a sanction would be against the express requirement of sub-section 1 of section 36. The object would not be effectively achieved by sanction accorded after the transaction is completed. At the same time, it is always open for the trust, in a given case, to

approach the Charity Commissioner for sanction of the proposed sale to a person in whom they have confidence for the reasons. However, that does not mean the Charity Commissioner should accord sanction to such transaction, without ascertaining whether price offered by such person was reasonable by directing the trustees to invite offers for sale of the property or making such enquiry as he deems fit in the interest of the trust and then proceed either to grant or declined to grant sanction for the reasons to be recorded separately. In the present case though the trustees entered into the MOU with respondent no.3, they did not complete the transaction and had invited offers and further on the Charity Commissioner's suggestion invited fresh offers by publishing the second advertisement. In the circumstances, the submission of Mr Dhakephalkar that the trustees had completed the transaction and to complete the formality approached the Charity Commissioner seeking ex post facto sanction, cannot be accepted.

8.3 Mr Dhakephalkar, learned counsel for the petitioner, submitted that the petitioner was and is prepared to enhance his bid. He further submitted that Mr.Shetty, Advocate on record was given Power of Attorney by the petitioner, which gives him power to enhance the bid. Without entering into a question of a propriety as to whether Advocate on record should take

such Power of Attorney, I asked for a copy of the Power of Attorney which Mr Dhakephalkar instantly placed on record. I perused the Power of Attorney. From its contents, it would be very difficult to accept that Mr Shetty was given power to enhance the bid. Clause 3 of the Power of Attorney, according to Mr.Dhakephalkar, gives power to Mr Shetty to enhance the bid. Clause 3 of the Power of Attorney empowers Mr Shetty to arrive at settlement, communicate the same to the petitioner and on his approval file consent terms in the proceedings under section 36 of the Trust Act. In my opinion, it does not empower him to enhance the bid. The petitioner himself did not appear either before the Charity Commissioner or in this Court. In view thereof, even if it is assumed that clause 3 gives him such power to enhance the bid in the absence of the petitioner, without his approval Mr Shetty was not in a position to do so either before the Charity Commissioner or before me. Moreover, the argument of Mr Dhakephalkar that the petitioner was and is prepared to enhance the bid, is a speculative argument. Merely because he expressed his readiness to enhance bid, no fault can be found with the impugned order.

8.4 In my considered opinion, the Charity Commissioner in the present case acted responsibly by observing the mandate of section 36 of the Trust Act. I am satisfied that he did make enquiry whether the sale

in favour of respondent no.3 is in the interest or benefit of the trust and has rightly held that the trustees acted in the best interest of the trust. As observed earlier it was not open to the Charity Commissioner to sell the trust property to anyone other than the person selected by them. In the present case, it is clear that the Charity Commissioner performed his role in conformity with the spirit and object of section 36. It is further clear that the trustees have confidence in respondent no.3 and at the same time they were not confident about the petitioner. Keeping the overall facts and circumstances of the case in view and well settled position in law, I see no reason to exercise supervisory jurisdiction under Article 227 to interfere with the order passed by the Charity Commissioner under section 36 of the Trust Act.

9. That takes me to consider the submission of Mr Dhakephalkar that the impugned order was passed in breach of the principles of natural justice. I heard the learned counsel for the parties at length to find out whether really injustice is done to the petitioner. The Roznama clearly shows that on most of the occasions Advocate Mr Shetty for the petitioner was absent. It would be advantageous to reproduce the Roznama from 7.4.04 till the order was passed by the Charity Commissioner.

ROZNAMA

7.4.04 Taken up on Board. Advocate Shaikh present for trust. Adv. Kadam present for purchaser. Adv.Kejale Pr. for Purchaser. Adv. Shetty absent.
Exh.51 Application for taking Newspapers on record (original) - Production allowed.
Exh-52 (1)The Free Press Journal.
Exh-53 (2) Gawakari (Nashik).
Heard. Matter Adjourned for judgment on 16.4.04.

16.4.04 Taken up today.
Adv. Shaikh present. Adv. Kadam present. Ld Jt.C.C is busy in another judicial case. Hence, Adj. to 7.5.04

7.5.04 Taken up today. Adv. Shaikh Pr. for trust.
Adv. Kadam Pr. Adv.Kajale Pr. Adv.Shetty absent for Kukreja objector. Since Ld. Jt C.C. Is on leave, matter is adj. to 13.5.04.

13.5.04Taken up today. Adv. Shaikh absent.
Purchaser present. Matter adj for compliance on 9.6.04
Exh.54 Notice of hearing sent to Adv. for objector of above date.

9.6.04 Taken up on board. Adv. Shaikh present for trust. Adv. Kadam Pr. for objector. Adv. Shetty for objector. Shri Kukreja absent. Asstt. Present on behalf of Adv. Shetty. Matter adj to next date on 18.6.04.

18.6.03 Taken up today. Adv. Shaikh Pr.for trust.
Adv. Kadam Pr. for purchaser. Adv. Shetty absent for objector. Ld. Jt C.C. Is busy in the administration work. Hence, adj. on 22.6.04.

22.6.04 Taken up on board. Adv. Shaikh present. Adv. Kadam present.
Exh.55 Letter sent to Bhojnasi Panchayat Trust from Ghanshyam Kukreja.
Re. Tenders for sale of trust property. Matter adj. for hearing on 25.6.04.

25.6.04 Taken up today. Adv.Shaikh Pr. for trust.
Adv. Kadam Pr. for Purchaser. Adv. Shetty absent. Adv. Kajale absent. Since Ld Jt C.C. is on leave, matter adj. on 30.6.04.
30.6.04 Taken up on board.
Exh.56 Judgment-order passed by Ld Jt C.C. Application is allowed.
Dt: 30.6.04

Even after 7.4.2004, Advocate Mr.Shetty for the petitioner failed to appear before the Charity Commissioner on all the dates. On 13.5.2004, a specific notice of hearing to the Advocate for the petitioner was issued by the Charity Commissioner and despite that he remained absent on 9.6.2004. The Advocate for the petitioner has stated that he met with train accident on 17.6.04 and, therefore, he could not attend the matter before Charity Commissioner. Even if it is assumed that, what the petitioner's advocate has stated was true, he ought to have appeared on 25.6.2004 or should have cared to send someone on his behalf before the Charity Commissioner after 17.6.04. Roznama clearly shows that the Charity Commissioner was helpless and the petitioner by his conduct virtually forced him to deliver the judgment on 30.6.2004. Roznama prior to 7.4.2004 would show that on most of the occasions the advocate for the petitioner was absent. Merely because the Charity Commissioner was on leave on 25.6.2004, that would not justify the petitioner's absence. The petitioner has categorically stated in the petition that on 22.6.2004 the petitioner's advocate's junior visited the office of respondent no.4 and got information that the matter was already kept for order and the order would be communicated by post. That does not seem to be correct. Roznama of 22.6.2004 does not say so. In fact, on 22.6.04 it was once again adjourned for

hearing. In view thereof, the submission of Mr Dhakephalkar that the principles of natural justice were being violated must be rejected.

10. Keeping in view the peculiar facts and circumstances of the case, the judgments pressed into service by Mr Dhakephalkar in support of his contentions will be of no avail to the petitioner.

11. In the circumstances, this petition fails and is dismissed as such.

12. Mr Dhakephalkar, learned counsel for the petitioner, prayed for continuation of the ad-interim relief granted by this Court on 15.9.2004 for a period of five weeks. The learned counsel for the respondents fairly stated that he has no objection for allowing the ad-interim relief to remain operative for a period of five weeks from today. Order accordingly. It is,however, open for respondent no.3 to deposit the balance amount with the trust.

. An authenticated copy of this order may be made available to the parties.

(D.B.Bhosale, J.)

dwp7621-04

HIGH COURT
CIVILI APPELLATE SIDE

WRIT PETITION NO.7621 OF 2004

Date of Judgment:

15th October, 2004

For approval and signature

THE HON'BLE MR.JUSTICE D.B.BHOSALE.

1. Whether Reporters of Local Papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any Order made thereunder?

5. Whether it is to be circulated to the Civil Judges?

6. Whether the case involves an important question of law and whether a copy of the judgment should be sent to Nagpur Aurangabad or Goa offices?